

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

**KENNETH EUGENE FOSTER, JR.,  
TDCJ No. 999232,**

Petitioner,

**v.**

**DOUGLAS DRETKE, Director,  
Texas Department of Criminal  
Justice, Correctional  
Institutions Division,**

Respondent.

MAR - 3 2005  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

**CIVIL NO. SA-02-CA-301-RF**

## FINAL JUDGMENT

This federal habeas corpus action, filed pursuant to Section 2254 of Title 28, United States Code, came for consideration before the Court. In a Memorandum Opinion and Order issued contemporaneously with this Judgment, this Court has rendered a final decision on all issues pending in this cause.

It is **ORDERED** and **ADJUDGED** that:

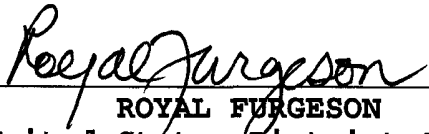
1. Petitioner's request for an evidentiary hearing is **DENIED**.
2. All relief requested in petitioner's first through third, sixth, and eighth through fourteenth claims for federal habeas corpus relief herein is **DENIED**.
3. Petitioner is **DENIED** a Certificate of Appealability with regard to all claims for which relief has been denied.
4. Petitioner's fourth, fifth, and seventh claims for relief herein are **CONDITIONALLY GRANTED** in part as follows: this Court will issue a Writ of Habeas Corpus unless, within ninety days from

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the date the Judgment in this cause becomes final, the State of Texas either (1) grants petitioner a new trial on the issue of punishment only, as permitted by Article 44.29(c), Texas Code of Criminal Procedure, or (2) vacates petitioner's death sentence and imposes sentence of less than death.

5. All other pending motions are **DISMISSED** AS MOOT.

**SIGNED and ENTERED this 3<sup>rd</sup> day of March, 2005, at San Antonio, Texas.**

  
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**ROYAL FURGESON**  
**United States District Judge**